

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF THE STATE OF TEXAS
ABILENE DIVISION

**TSEPHANYAH Y. HAWKINS,
YAHCHANAN Y. HAWKINS**
Plaintiffs

V.

CLAUDIA M. HUTCHISON, in her
personal capacity and in her capacities with
StenoScribe, Incorporated, Vocedit,
Inc., NORMAN M. OSTER, in his personal
Capacity and in his capacities with
StenoScribe, Incorporated, Vocedit, Inc.,
STENOSCRIBE, INCORPORATED and
VOCEDIT, INC.,
Defendants

§ Civil Action No. 1-05CV-184-C

DEFENDANT CLAUDIA HUTCHISON’S, NORMAN M. OSTER’S,
STENOSCRIBE, INCORPORATED’S AND VOCEDIT, INC.’S
MOTION FOR DISMISAL,
OR IN THE ALTERNATIVE, PLEA IN ABATEMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant CLAUDIA HUTCHISON, hereinafter referred to as Hutchison, DEFENDANT NORMAN M. OSTER, hereinafter referred to as Oster, Defendant STENOSCRIBE, INCORPORATED, hereinafter referred to as StenoScribe, Inc., and DEFENDANT VOCEDIT, INC., hereinafter referred to as VocEdit, Inc., and respectfully moves for dismissal or abatement against Plaintiffs, Tsephanyah Hawkins and Yahchanan Hawkins.

I.

SUMMARY

1. On October 10, 2003, a lawsuit between Claudia M. Hutchison and Plaintiff Tsephanyah Hawkins and StenoScribe Inc. was filed in Callahan County, Texas (Texas State Litigation) which involved a dispute over the ownership and accounts of StenoScribe, Inc. The current

pleadings in that action are contained in the Appendix and are incorporated herein for all purposes as if copied verbatim. Such suit by Hutchison is about the ownership of the software that is utilized in the computerized court reporting systems that were sold by StenoScribe, Inc., now known as Courtroom Data Solutions, Inc., the ownership of Courtroom Data Solutions, Inc., an accounting regarding such business, and requests a money judgment due to the disparity of money and property that Tsephanyah has received from such corporation versus what Hutchison has received. (See PLAINTIFF'S FIRST AMENDED ORIGINAL PETITION in Appendix, Exhibit No. 1) In fact, in the DEFENDANT'S COUNTERCLAIM filed by Tsephanyah Hawkins and Courtroom Data Solutions, Inc., they allege causes of actions for Tortious Interference with Contracts, Misuse of Civil Process, and Misappropriation of Corporate Opportunities. (See DEFENDANTS' COUNTERCLAIM in Appendix, Exhibit No. 2)

2. The actions in the Texas State Litigation constitute the bases of most of the causes of action alleged by the Plaintiffs in their Second Amended Complaint filed in this federal lawsuit surrounding the sale of some computerized court reporting systems by StenoScribe, Inc., now known as Courtroom Data Solutions, Inc. to the corporation now known as THE NATIONAL INSTITUTE OF REALTIME COURT REPORTERS, INC.

A majority of the original defendants have been dismissed, The Honorable Judge John Weeks, The National Institute of Realtime Reporter's, The South Carolina School of Court Reporting, Inc., Victoria L. Carter, the Carter Law Offices, Marilyn Gardner, John Chistolini, S.A.W. Solutions, Inc., Charles C. Self, Donald Anderson, Chistolini and Desimone, Inc., and Whitten & Young, P.C. The only remaining defendants are Hutchison, StenoScribe, Inc, VocEdit, Inc., and Norman Oster. One of the Plaintiffs was dismissed, that being Courtroom Data Solutions, Inc.

3. All the facts in this case will certainly be litigated in the state court case. The time frame for the causes of action alleged by the Plaintiffs in this case is from around June 2003 till present. The time frame for the causes of action alleged in the state court proceedings is from 1997 through the present. It should be noted that Plaintiff Tsephanyah Hawkins specifically alleged a cause of action in the state court action for misuse of civil process for the issuance of the Temporary Restraining Order, which is one of his primary allegations here in this action. In effect, now with the dismissal of most of the original defendants, this action amounts to a removal action of the state court proceeding, which was filed first and is still pending.

4. A trial date has been scheduled for March 19, 2006, in the state court proceeding. (See Appendix, Exhibit 3.)

5. The dismissal or abatement of this action would be an acceptable means of avoiding unnecessary duplication of judicial machinery.

6. Any other required matters are set forth in the Brief in Support of this Motion.

WHEREFORE, PREMISES CONSIDERED, Defendants Hutchison, StenoScribe, Inc., VocEdit, Inc. and Norman Oster, pray that after the court considers this motion, that it be granted and that this matter be dismissed without prejudice, or in the alternative, abated until the state court action is completed.

RESPECTFULLY SUBMITTED,

/s/Gary M. Brown
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Attorney for Defendants
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CERTIFICATE OF CONFERENCE PURSUANT TO
LOCAL RULE 7.1

I, Gary M. Brown, contacted Yahchanan Hawkins on October 15, 2006, and he informed me that he would oppose this Motion. I, called Tsephanyah Hawkins, at 325-893-4790, and got his answering machine, and left a message regarding a conference. However, I anticipate that he will oppose this motion.

Date: October 15, 2006

___/s/ Gary M. Brown

Gary M. Brown

CERTIFICATE OF SERVICE

This is to certify that on this the 15th day of October, 2006, I electonically filed the foregoing document with the clerk of court of the U.S. District Court, Northern District of Texas, using the electronic case filing statement of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

I hereby certify that I made service by Certified Mail, Return Receipt Requested, or by Fax if number is show, to the following persons as addressed below:

Tsephanyah Y. Hawkins
3706 Private Road 2547
Clyde, Texas 79510

Yahehanan Y. Hawkins
3471 Private Road 2541
Clyde, Texas 79510

___/s/ Gary M. Brown

Gary M. Brown